



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

HD:hd

Docket No: 05732-98

24 August 1999

LCDR [REDACTED] SN [REDACTED]

Dear Commander [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 August 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 1 February 1999, a copy of which is attached. The Board also considered your letter dated 15 March 1999.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board noted that the contested fitness report does not state you were marked "promotable" because you were not eligible for early promotion. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

5732-98



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
NPC-311
1 February 1999

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Via: NPC/BCNR Coordinator (NPC-00XCB)

Subj: LCDR [REDACTED], USN, [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 1 November 1995 to 13 June 1996, his statement, and first endorsement from his record.

2. Based on our review of the material provided, we find the following:

a. A review of the members headquarters record revealed the report in question to be on file. The member signed the report on 12 June 1996 acknowledging the contents of the report and his right to submit a statement. The member's statement and first endorsement are on file in the member's record.

b. The member's requested a letter supplement be issued revising the promotion recommendation. Only the reporting senior who signed the original fitness report may submit supplementary material for file in the member's record. In his first endorsement, the reporting senior reiterated his reasons for the report and did not indicate he would submit a letter supplement or revised report.

c. Although a fitness report does not have to be consistent with prior reports, inconsistencies as significant as those in [REDACTED] case should have a clear explanation to prevent questions or speculation by a selection board. The fact that the fitness report for the two previous reporting periods from the same command (from the same reporting senior) were excellent reports has no bearing on the fitness report in question. The report is a valid report. Each fitness report represents the judgment of the reporting senior during a particular reporting period. In this case, the reporting senior has stated his reason for the report in question.

d. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remain unchanged.



Head, Performance
Evaluation Branch